

REMARKS

Claims 1-19 are pending in this application. Claims 1, 5, 8, 11, 14, 16, 18 and 19 are independent claims. Reconsideration in view of the following remarks is respectfully solicited.

The Claims Define Patentable Subject Matter

The Office Action rejects claims 1-19 under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent No. JP 11-212995 to Okazaki (hereafter Okazaki) in view of U.S. Patent No. 6,434,596 to Ludtke et al. (hereafter Ludtke).

This rejection is respectfully traversed.

Applicant respectfully submits that the combination of Okazaki and Ludtke fail to teach or suggest each and every feature as set forth in the claimed invention.

Specifically, applicant respectfully submits that the Examiner is improperly associating Okazaki's information transmitting system combined with Ludtke's distributed queues and proxies system with the claimed invention. For example, the Examiner alleges that Okazaki discloses a schedule processing means for processing the request for obtaining the hypertext data based on schedule data in on-line operation when the data communication apparatus is connected to the network. However, Okazaki fails to disclose automatically processing the request based on off-line schedule data during on-line operation when the data communication apparatus is connected to the network. Okazaki's system only discloses on-line functions. No off-line features are taught by Okazaki. The

Examiner even admits that Okazaki fails to teach generating and storing schedule data based on a request in off-line operation.

However, in an attempt to make up for the deficiencies found in Okazaki, the Examiner imports Ludtke. Specifically, the Examiner alleges that Ludtke discloses generating and storing schedule data based on a request for obtaining hypertext data in off-line operation. However, a close review of Ludtke reveals that a proxy device must be used in order to get the request information to the servicing devices. In other words, Ludtke uses a proxy device to store a plurality of requests and the associated data for performing services. An audio/video (AV) network in Ludtke sends via a serial interface a plurality of requests for performing the services. When the proxy device detects that the requesting device is on-line, the proxy device retrieves the associated data from these devices and forwards the data to the servicing devices when the servicing devices are on-line. Hence, the system in Ludtke replies on an intermediary device, i.e., the proxy device, to store information and to detect when the devices are on-line. In addition, Ludtke fails to teach that the requesting device and the proxy device are used as a single device. In fact, Ludtke expressly states that it does not allow the requesting device and the proxy device to be used as a single device. For example, Ludtke recites that "requesting devices can establish a number of requests without requiring expansive memory and storage resources." (see Ludtke col. 3, lines 32-33). In other words, Ludtke states that it does not allow the requesting device and the proxy device to be used as a single device.

Furthermore, Ludtke states that prior art devices cannot establish requests for services while one or more servicing queues are off-line. (see Ludtke, col. 2, lines 9-11). In Ludtke, requesting devices of the prior art must continue to store their requests and the associated data until the servicing device goes on-line again, which results in having to store information for a significant period of time and being unable to use their limited memory and storage resources for performing other tasks. As such, Ludtke merely discloses the drawbacks of having an AV network with storage that is connected to a servicing device. However, Ludtke's AV network fails to generate and store schedule data based on a request for obtaining hypertext data in off-line operation. Like Okazaki, Ludtke's requesting device must be on-line with either the proxy device or the servicing device in order to establish a request. If Ludtke's requesting device is off-line with the proxy, for example, no request can be establish. In Ludtke, at least two devices in the chain must be on-line, i.e., connected to each other, before any data requesting can be established. Ludtke's requesting device cannot store off-line the requesting data within itself, then thereafter automatically process the request based on the off-line schedule data during on-line operation. Ludtke requires the help of a proxy device (an intermediary device) in order to achieve the benefits of the present invention.

In addition, the Examiner alleges that Okazaki discloses connection control means that connects the data communication apparatus to the network to establish on-line operation at a

predetermined time and date in accordance with the time and date detected by a clocking means. (see Office Action, page 3). We disagree with this allegation. Applicant respectfully submits that Okazaki merely discloses the timing when the information is to be acquired (see Okazaki, page 2 [0007]), not a timing for connecting the data communication apparatus to the network to establish on-line operation, as set forth in at least claim 2. In Okazaki, the portable radio is always on-line with the communication network. Okazaki is completely silent about off-line operations. As such, Okazaki cannot be referring to a timing for connecting the radio to the network (bringing the system on-line), instead, Okazaki is merely referring to a timing for getting the information. In Okazaki, the devices are assumed to be already on-line.

To establish a *prima facie* case of Obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Applicant respectfully submits that not only does the combination of references fail to teach or suggest each and every feature as set forth in the claimed invention, but that one of ordinary skill in the art would not have been motivated to combine/modify the teachings of Ludtke with Okazaki because there is no teaching or suggestion in any of the references regarding how or why one would modify such systems to arrive at the claimed invention.

Applicant respectfully submits that independent claims 1, 5, 8, 11, 14, 16, 18 and 19 are allowable over the combination of Ludtke and Okazaki for at least the reasons noted above.

As for each of the dependent claims not particularly discussed above, these claims are also allowable for at least the reasons set forth above regarding their corresponding independent claims, and/or for the further features claimed therein.

Accordingly, withdrawal of the rejection of claims 1-19 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

In view of the foregoing, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact Carolyn T. Baumgardner (Reg. No. 41,345) at (703) 205-8000 to schedule a Personal Interview.


Appl. No.: 09/901,666
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Reply to Office Action of October 6, 2003

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment from or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, the extension of time fees.

Respectfully submitted,
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